

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO.49 OF 2013

M K W.....PETITIONER

VERSUS

J O W N.....RESPONDENT

JUDGMENT

1. The petitioner got married to the Respondent on the 11/6/2004 at the Attorney General's office. That after the said marriage they stayed at *[particulars withheld]* Flats within Kasarani and they were blessed with two children J M K 12 years old and L M K who is 10 years old. That the respondent left the matrimonial home sometimes in 2007 and the parties have lived separately to-date. The petitioner seeks a divorce from the Respondent on grounds of desertion which he particularizes as follows; that despite his efforts to resolve the matter the respondent has stayed away from the matrimonial home since 2007 and appears not to be interested in the relationship. That the marriage has irretrievably broken down reasons why the petitioner prays that his marriage to the respondent be dissolved; that he is given custody of the children of the marriage and that the court issue maintenance, education and health to be shared by both him and the respondent.
2. Despite the party being served with the petition she did not enter appearance or file an answer to the same. The Registrar on 11th December issued a certificate that the cause proceed as undefended.
3. The cause came up for hearing on 4th June 2015. The petitioner reiterated the grounds on the face of the petition. He stated that sometimes in 2007 the respondent indulged in alcohol and deserted the matrimonial home and has never come back 8 years on. That she was irresponsible and the little money he left in the house she would drink it all. That he has custody of the two children of the marriage and the respondent has not come to see them since 2007. That after her grandfather died he does not know any other respondent's relatives adding that the respondent could have seen the children if she wanted.
4. The petitioner's evidence is not controverted. The petitioner seeks a divorce on grounds of desertion. Desertion is a ground for divorce provided for under section 8 of the Matrimonial Causes Act. The petitioner in his testimony states that the respondent went drinking sometimes in 2007 and never came back and that they have not cohabited as husband and wife since 2007. This evidence was not controverted. From the petitioner's testimony it is evident that the respondent has deserted the matrimonial home. I find that the marriage between the parties has irretrievably broken down and there is no possibility of reconciliation. This court therefore dissolves the marriage between the Petitioner and the Respondent celebrated on 11/6/2004. A *decree nisi* to issue forthwith and to be made absolute within 30 days. No orders as to costs. It is so ordered.

Signed, dated and delivered this 25th Day of *June* 2015.

R. E. OUGO

JUDGE

In the presence of:

.....Petitioner

.....Respondent

M/s Charity

Court Clerk